IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 332 of 2006 (S/B)

Rishi Ram Bhatt S/o Sri Govind Ram Bhatt,
Presently posted as Deputy Director/
Executive Engineer,
State Engineers Academy, Kalagarh,
Pauri Garhwal. …….. Petitioner

Versus

1. State of Uttaranchal through Secretary,
   Irrigation, Govt. of Uttaranchal,
   Dehradun.
2. Secretary Irrigation,
   Government of Uttaranchal,
   Dehradun.
3. Executive Engineer,
   Irrigation Division,
   Dehradun. ……. Respondents

Mr. S.N. Babulkar, Senior Advocate with Mr. Ravi Babulkar, Advocate for the petitioner.
Mr. Subhash Upadhyaya, Brief Holder for the respondents.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S. Rawat, J.

RAJEEV GUPTA, C. J. (Oral)

Mr. S.N. Babulkar, Senior Advocate with Mr. Ravi Babulkar, Advocate for the petitioner.

Mr. Subhash Upadhyaya, Brief Holder for the respondents.

They are heard.

2. Mr. Subhash Upadhyaya, the learned Brief Holder for the respondents has raised a preliminary objection about the maintainability of the writ petition on the ground that the petitioner has an alternative efficacious remedy of filing a claim petition before the Public Services Tribunal.

3. Mr. S.N. Babulkar, the learned Senior Counsel for the petitioner could not point out as to how the alternative remedy of filing a claim petition before the Public Services Tribunal is not efficacious in the present case.

4. In this view of the matter and following the Division Bench decisions in the cases of **Bhuvan Chandra Pandey & other Vs. State of Uttaranchal & other** reported in **2006(2) U.D. 439** and **Nanda Ballabh Pant Vs. State of Uttaranchal & others (W.P.S.B. No. 257 of 2005)**, we decline to exercise our discretionary jurisdiction under Article 226 of the Constitution of India.

5. The writ petition, therefore, is liable to be dismissed.

6. The writ petition, therefore, is dismissed with the liberty to the petitioner to avail the alternative remedy of filing a claim petition before the Public Service Tribunal and also to seek condonation of the delay in filing the claim petition on the ground that the petitioner was pursuing this writ petition under bonafide belief.

7. Consequently, the interim order dated 14.11.2006, which was extended vide order dated 09.04.2007, stands vacated automatically.

8. With the above order, CLMA No. 13827 of 2006 also stands disposed of.

(J.C.S. Rawat, J.) 25.04.2007

(Rajeev Gupta, C. J.) 25.04.2007

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